



STATE OF WASHINGTON
DEPARTMENT OF LABOR AND INDUSTRIES

Specialty Compliance Services
PO Box 44400 • Olympia, Washington 98504-4000

August 28, 2003

Dear Forest Products Industry Stakeholder,

Enclosed is a copy of the Department of Labor and Industries' (L&I) Farm Labor Contractor (FLC) checklist packet. These materials represent a great deal of time and energy by the department, landowners, business operators, associations, and workers that assisted in the development process and are intended to support compliance with Washington's farm labor contracting laws. These laws were enacted in 1955 and significantly expanded in 1985 in order to protect vulnerable workers and to clarify employer liability in the event of non-payment of wages or mandated benefits.

The packet is divided into several sections. The first section is a fact sheet that summarizes the applicable requirements and definitions of those affected by the specialized forest products and farm labor contractor laws.

The second section is a set of checklists for harvester employees, farm labor contractors, shed operators, and landowners. These checklists are intended to help avoid employer liability by identifying individuals that may be unlicensed FLC's. "Liability" means that the shed operator or landowner could be responsible for unpaid wages and other financial obligations of the FLC. There are also simple-to-use ledgers that can be filled out to assist in the determination of compliance with the standards. In addition, the section includes a FLC checklist that is designed to help a harvester that sells forest products determine if they are a FLC and, therefore, must be licensed with Labor and Industries. It is important to note that an unlicensed FLC could receive significant monetary penalties for failing to become licensed. Finally, the employee checklist informs FLC employees of their rights under the various laws that apply to this industry.

The third section contains a set of the applicable laws. The fourth section contains a list of the current licensed farm labor contractors. This list is updated monthly and can be found on our web site at <http://www.LNI.wa.gov/scs/workstandards/farmlabr.htm>.

We hope this informational packet of materials is beneficial to individuals involved in the forest products industry. Finally, I would like to thank all of those stakeholders that came to our meetings in late May and early June to assist us in compiling this material and for all of the support we have received in this important project.

Sincerely,

Patrick Woods
Assistant Director, Specialty Compliance Services

Enclosures

Farm Labor Contractor for

Specialty Forest Products Industry





Protecting workers in the specialty forest products industry

June/July 2003

L&I has begun an emphasis in the specialty forest products industry to:

- ◆ **Educate the industry about the requirements of farm labor contractors.**
- ◆ **Crack down on the exploitation of vulnerable, low-wage workers.**
- ◆ **Ensure a level playing field for businesses that deal with legitimate, registered farm labor contractors.**

The Department of Labor and Industries has begun an emphasis in Thurston and Mason counties to find unlicensed farm labor contractors in the specialty forest products industry.

The harvest and sale of non-timber forest products such as salal, beargrass, mushrooms and ferns is a multimillion-dollar, international industry for Washington state. Farm labor contractors – also known as labor brokers – obtain harvest permits for specialty forest products, and are required to register with L&I.

Within the industry, there are a number of farm labor contractors who are operating illegally, without valid registration. They often hire non-English-speaking Hispanic workers who may not be aware of their rights to earn minimum wage, work in safe conditions and receive compensation if they are involved in a work-related accident.

Why is L&I focusing on this industry?

This initiative is in response to labor, business and local law enforcement concerns about illegal operations within the brush-picking industry.

The Washington Farm Labor Contractor statute (RCW 19.30), adopted by the Legislature in 1955, was amended in 1985 to include forestation and reforestation operations so that workers in those industries could be ensured payment of minimum wage and safe working conditions. A violation of the Farm Labor Contractor law is considered a misdemeanor, punishable by a maximum fine of \$5,000 or imprisonment in the county jail for a maximum of six months, or both.

Working with industry stakeholders, L&I has created checklists with key indicators and business practices to help harvesters, farm labor contractors, shed owners and landowners comply with the law. Over the next few months, the agency will provide outreach on the initiative to workers through Spanish radio talk shows and other media.

In addition, L&I plans to perform educational audits and consultations with at least two companies that are believed to be doing business with illegal farm labor contractors.

Farm labor contractor laws do not apply to:

- ◆ **Employees of Washington State Employment Security and its agents**
- ◆ **Common carriers (such as a transportation business licensed by the Washington Utilities and Transportation Commission, and contracted for shipping purposes).**
- ◆ **Full-time, regular employees of the landowner or shed**
- ◆ **Non-profit corporations**

What is a farm labor contractor?

A farm labor contractor is an individual, firm, partnership, association, corporation, or unit of a state or local government that brokers between a landowner or shed operator to provide workers **for a fee**. Typically, a farm labor contractor:

- Recruits or solicits agricultural workers through methods such as advertising or word of mouth.
- Hires or employs workers to perform agricultural activities, which include but are not limited to growing, producing, harvesting of farm or nursery products; planting, transplanting, tubing, pre-commercial thinning, thinning of trees and seedlings; clearing, piling and disposal of brush and slash; harvesting of Christmas trees; brush picking; cutting boughs; and gathering fir cones, mushrooms, beargrass, ferns and other forest products.
- Supplies workers to agricultural employers to perform work in any type of the activities listed above.
- Transports agricultural workers from a pick-up point to the harvesting area.

Farm labor contractors are required to maintain:

- A Washington State master business license from the Department of Licensing
- A Washington State farm labor contractor license from L&I
- Tax compliance certification
- Employment agreements signed by each worker
- A surety bond or cash deposit in the following amounts to ensure the payment of wages owed to workers:
 - \$5,000 for 1-10 employees
 - \$10,000 for 11-50 employees
 - \$15,000 for 51-100 employees
 - \$20,000 for 100 or more employees
- Vehicle insurance, if providing transportation to workers, at the following coverage levels: \$50,000 injury or damage to property; \$100,000 for injury or damage, including death, to any one person; and \$500,000 for injury or damage, including death, to more than one person.
- Payroll records which include the basis on which wages are paid, piece rate units earned (if applicable), number of hours worked, total pay period earnings, specific sums withheld, the purpose of each sum withheld and net pay. Farm labor contractors are also required to disclose in a written statement to the workers their rights in English and other languages common to the workers, and the terms and conditions of their pay basis.



FARM LABOR CONTRACTOR COMPLAINT FORM

The Department of Labor and Industries and landowners, business operators, associations, and workers of the special forest products industry have committed to ensuring they are in compliance with the Farm Labor Contractor laws. This complaint form is intended to help ensure that harvesters who are actual Farm Labor Contractors are licensed with the Department; to ensure shed operators are following the applicable laws associated with purchasing specialized forest products; and to ensure landowners are properly selling permits as required by law.

WHO IS A FARM LABOR CONTRACTOR?

A Farm Labor Contractor is an individual, firm, partnership, association, corporation or government agency that, for a fee, recruits, solicits, employs, supplies, transports, or hires agricultural workers. Agricultural workers are employed for growing, producing or harvesting farm or nursery products, or in the forestation or reforestation of lands or other related activities. "Fee" includes anything that is received in exchange for FLC services.

HOW DOES THIS AFFECT ME?

Chapter 19.30.200 RCW states: "Any person who *knowingly* uses services of unlicensed farm labor contractor shall be personally, jointly and severally liable." (Italics added) There are remedies and penalties for failing to comply with applicable statutes and rules, including fines of up to \$1000, potential right of action, and liens against bonds. Therefore, filing a complaint with the Department of Labor and Industries can help you, and can help the industry by leveling the playing field.

HOW CAN I PROTECT MYSELF?

The following complaint form can help the Department follow up on potential illegal operators so that everyone who operates legally has a fair chance in this business.

Please fill out the following complaint form as completely as possible.

Name of person or company complaint is against:	Address of person or company:
Phone number of person or company:	
Is this a: (check all that apply) <input type="checkbox"/> Unlicensed Farm Labor Contractor? <input type="checkbox"/> Licensed Farm Labor Contractor? <input type="checkbox"/> Shed (Specialized Forest Products Purchaser)?	
<input type="checkbox"/> Landowner? <input type="checkbox"/> Employer? <input type="checkbox"/> Other (please specify)?	
Please describe in detail the alleged violations:	
Your name and address (optional): Your phone number (optional):	Do you wish to have your identity remain confidential? Yes <input type="checkbox"/> No <input type="checkbox"/> Under RCW 42.17.310(1)(e), I request my identity be withheld as disclosure may endanger my life, physical safety or property. This statement may be subject to disclosure only in accordance with applicable statutes such as the Washington Public Disclosure Act and agency policy.

See Chapter 19.30 RCW, Farm Labor Contractors, Chapter 296-310 WAC, Farm Labor Contracting Rules, and Chapter 76.48 RCW, Specialized Forest Products for full statutory requirements. For further information, contact the Department at the address or phone number listed at the top of this page.

F700-109-000 employment standards farm labor contractor complaint form 8-03



FARM LABOR CONTRACTOR CHECKLIST

The Department of Labor and Industries and landowners, business operators, associations, and workers of the special forest products industry have created the following list of questions to assist the industry in complying with Farm Labor Contractor laws. This list is intended to help an industry member determine if he or she is an unlicensed Farm Labor Contractor (FLC).

WHO IS A FARM LABOR CONTRACTOR?

A Farm Labor Contractor is an individual, firm, partnership, association, corporation or government agency that, for a fee, recruits, solicits, employs, supplies, transports, or hires agricultural workers. Agricultural workers are employed for growing, producing or harvesting farm or nursery products, or in the forestation or reforestation of lands or other related activities. "Fee" includes anything that is received in exchange for FLC services.

HOW DOES THIS AFFECT ME?

RCW 19.30.120, 19.30.150, and 19.30.160 state that any person who violates the farm labor contractor laws by making misrepresentations in an application for a license or does work in the capacity of a farm labor contractor without being licensed shall be guilty of a misdemeanor punishable by a fine of \$5000, and/or receive civil penalties of \$1000 for each violation of the statute.

HOW CAN I PROTECT MYSELF?

Industry members can use this checklist and business practice guideline as a tool to assess their scope of responsibility.

Place a checkmark in the box (☐) corresponding to the provided response.

Checklist Item	Business Practice
1. Am I exempt from the Farm Labor Contractor (FLC) laws? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Don't Know	RCW 19.30.010(6): You may be exempt if you are a Department of Employment Security employee, a common carrier or their full-time employee, a non-profit corporation, or a regular employee of an agricultural employer and not receiving a commission or fee. Contact L&I at the number listed above for assistance.
2. Am I a Farm Labor Contractor? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Don't Know	RCW 19.30.010(3): If you recruit, solicit, employ, supply, transport, or hire agricultural workers, you are a farm labor contractor (FLC).
3. If yes or don't know answer to number 2 above, obtain a farm labor contractor license from your local Labor and Industries service location. <input type="checkbox"/> Completed	RCW 19.30.020: Labor and Industries has several worksheets that will help you determine if you are an FLC, and will provide the documents necessary to get insurance, master business license, tax compliance certificates, and surety bond. The license costs \$35 or \$100, depending on activity being performed.
4. If yes to number 2 above, ensure each employee has signed an employment agreement form. <input type="checkbox"/> Completed	RCW 19.30.110(7): It is mandatory that FLC's give a signed form to each worker that explains the terms and conditions of employment and the worker's rights under the law. The L&I office has these documents in English and Spanish.
5. If yes to number 2 above and if transporting employees, obtain vehicle insurance. <input type="checkbox"/> Completed	WAC 296-310-040: The law requires minimum coverage for public liability and property damage. Some landowners may require a higher level of insurance, so check with the landowner you are working with first before purchasing insurance.
6. If yes to number 2 above, keep payroll records for all employees you hire. <input type="checkbox"/> Completed	RCW 19.30.110: The worker must be provided a written statement itemizing the total payment including descriptions of deductions, hours worked, and rate of pay with every paycheck. Wages must meet the state minimum wage. Records must be maintained for 3 years.
7. If yes to number 2 above, report the employee hours, pay premiums for worker's compensation coverage, and pay taxes on a quarterly basis. <input type="checkbox"/> Completed	All employers that have employees are required to report employee hours quarterly, pay industrial insurance premiums on employees quarterly, and report earnings for the business on a quarterly basis. Your local L&I office can provide information and documents on these issues.

See Chapter 19.30 RCW, Farm Labor Contractors, Chapter 296-310 WAC, Farm Labor Contracting Rules, and Chapter 76.48 RCW, Specialized Forest Products for full requirements. For further information, contact the Department at the address or phone number listed at the top of this page.



FARM LABOR CONTRACTOR EMPLOYEE/HARVESTER CHECKLIST

The Department of Labor and Industries and landowners, business operators, associations, and workers of the special forest products industry have created the following list to assist employees that work for a Farm Labor Contractor (FLC). Labor and Industries is NOT associated with the Immigration and Naturalization Service. We will not report an undocumented worker to the federal government—it is our intent to ensure you are provided a safe workplace, appropriate wages, and medical coverage if injured.

WHO IS A FARM LABOR CONTRACTOR?

A Farm Labor Contractor is an individual, firm, partnership, association, corporation or government agency that, for a fee, recruits, solicits, employs, supplies, transports, or hires agricultural workers. Agricultural workers are employed for growing, producing or harvesting farm or nursery products, or in the forestation or reforestation of lands or other related activities. “Fee” includes anything that is received in exchange for FLC services.

HOW DOES THIS AFFECT ME?

As an employee of a Farm Labor Contractor, you have certain rights under the law with regard to safety on the job site, wages, and filing a claim with the Department of Labor and Industries when injured on the job. This checklist is designed to help you, the harvester, understand your rights as an employee of a Farm Labor Contractor.

Place a checkmark in the box (☐) corresponding to the provided response.

Checklist Item	Business Practice
1. Do I work for a Farm Labor Contractor? <input type="checkbox"/> Yes <input type="checkbox"/> No	If your employer recruits, solicits, employs, supplies, transports, or hires agricultural workers, then they are a farm labor contractor (FLC). An FLC is required to do certain things for their employees, which are included in the following list.
2. Does each employee receive and sign an employment agreement form? <input type="checkbox"/> Yes <input type="checkbox"/> No	It is mandatory that FLC's give a form to each worker in their native language that explains the terms and conditions of employment and the worker's rights under the law.
3. Does each employee receive a payroll statement from his or her employer? <input type="checkbox"/> Yes <input type="checkbox"/> No	The worker must be provided a written statement that describes the total amount paid for the pay period and any deductions (taxes, insurance) taken from the check. It must also show the total hours worked, the rate of pay, and the pieces of work done. Wages must meet the state minimum wage (contact L&I for rate).
4. Each employee is entitled to a safe workplace free from recognized hazards, education about the hazards the employee may encounter, and information about protective equipment. Does your employer transport you to the picking site, in a vehicle with seats and seat belts for each occupant? <input type="checkbox"/> Yes <input type="checkbox"/> No	The FLC must provide a safe place to work. They must tell the employee about hazards such as working with special equipment, watching out for holes in the ground, and any issues regarding the employee's safety. The FLC must also give the employee protective equipment to prevent injury (like suntan lotion, eye protection, gloves, to name a few things). The FLC also has to inform the employee about where a first aid kit is located and what to do in an emergency.
5. Does the employer provide housing for the employee, and meet certain safety requirements involved with temporary labor camps? <input type="checkbox"/> Yes <input type="checkbox"/> No	If a worker is being housed by the FLC, then the camp has to have hot and cold running water, a toilet for every 15 people, a sink for every six people, garbage collection and removal, and a bed for each person. There are other requirements as well that L&I employees can explain.
6. Does each employee know they can file a claim with L&I if they are injured on the job? <input type="checkbox"/> Yes <input type="checkbox"/> No	If a worker is injured on the job, you should go to a doctor who will file a claim with L&I on your behalf. L&I will look into the actions that caused the claim, and help cover the costs if the injury occurs at work. We have Spanish-speaking claims managers to help you understand your rights. L&I will not turn an undocumented worker over to other state or federal government agencies.



SHED CHECKLIST

The Department of Labor and Industries and landowners, business operators, associations, and workers of the special forest products industry have created the following list of questions to assist a shed in complying with Farm Labor Contractor laws. This list is intended to help shed operators identify sellers that may be unlicensed Farm Labor Contractors (FLC's) to avoid liability. "Liability" means that the shed operator could be responsible for unpaid wages and other financial obligations of the FLC. The shed operator should also review the FLC checklist to assess if he or she is a FLC.

WHO IS A FARM LABOR CONTRACTOR?

A Farm Labor Contractor is an individual, firm, partnership, association, corporation or government agency that, for a fee, recruits, solicits, employs, supplies, transports, or hires agricultural workers. Agricultural workers are employed for growing, producing or harvesting farm or nursery products, or in the forestation or reforestation of lands or other related activities. "Fee" includes anything that is received in exchange for FLC services.

HOW DOES THIS AFFECT ME?

RCW 19.30.200 states: "Any person who *knowingly* uses services of unlicensed farm labor contractor shall be personally, jointly and severally liable." (Italics added) There are remedies and penalties for failing to comply with applicable statutes and rules, including fines of up to \$1000, potential right of action, and liens against bonds.

HOW CAN I PROTECT MYSELF?

The following checklist and business practices can be used as a tool in determining the scope of responsibilities. The accompanying ledger can be used as a checklist to assist you in your determination, and may be supplied to the Department during an audit.

Place a checkmark in the box (☐) corresponding to the provided response.

Checklist Item	Business Practice
1. Ask if the seller is a Farm Labor Contractor. <input type="checkbox"/> Yes <input type="checkbox"/> No	Asking questions, following the checklist, and using the ledger will help a shed establish that they are trying to do the right thing, potentially limiting liability. If the seller is a farm labor contractor (FLC), then they must have the FLC license on them--ask to see the license. If they say no to this question, continue on through this checklist.
2. Check the name on the forest product removal permit against the seller's driver's license or other valid picture identification. <input type="checkbox"/> Checked NOTE: The law requires the product and the seller's name to match what is listed on the permit.	RCW 76.48.085: The person's name that is selling product must match the name listed on the forest product removal permit, and the permit must accompany product. A person violating this provision is guilty of a gross misdemeanor per RCW 76.48.130. Contact L&I for guidance.
3. Ensure the forest product removal permit held by the seller is a true copy of the original permit. <input type="checkbox"/> True Copy NOTE: The law requires the seller to have an original or true copy of permit at time of sale.	RCW 76.48.050: The permit must be a "true copy" of the original permit that includes the name of the person the permit was sold to, the quantity allowed to be picked, and the time period of when the product can be picked. A person violating this provision is guilty of a gross misdemeanor per RCW 76.48.130. Contact L&I for guidance.
4. Ensure type of product to be purchased is same as that indicated on the permit. <input type="checkbox"/> Product is same as on permit NOTE: The law requires that the product being sold must be the same as that listed on the permit.	RCW 76.48.085: The permit must match the type of product being sold. A person violating this provision is guilty of a gross misdemeanor per RCW 76.48.130. Contact L&I for guidance.
5. Ask for the vehicle license number, or observe the vehicle license number for the vehicle that transported product. <input type="checkbox"/> Recorded vehicle license number	RCW 76.48.085 requires the purchaser to record on the bill of sale the vehicle license number of the vehicle that is transporting product to their place of business.
6. Note the quantity of product brought to the purchaser. Ask yourself "How many people would it take to pick this much product?" <input type="checkbox"/> Number of people:	RCW 76.48.085: *See back of document for guidelines on quantity of product one person could pick based on type of product harvested. If the amount appears greater than that listed, ask if the seller used employees for harvesting. The answer will assist you in determining if this individual is an FLC or not.
7. Determine the length of time since product was picked. <input type="checkbox"/> Length of time:	In correlation with quantity of product, this would help determine if the person is a FLC. Most products must be sold within two days of harvesting.

Additional decision making elements and considerations:

- After completing the checklist and ledger, ask yourself again "is this person a farm labor contractor?" If the seller cannot demonstrate compliance with the requirements noted above, they may be in violation of the law. Purchasing this individual's product may increase your liability as a shed operator. Contact L&I about this individual or to receive additional guidance.
- If more than one person is delivering the product to your shed, ask all sellers whether they have a permit. Research can help you avoid liability.
- Make sure financial transactions are appropriate to the amount of product harvested. It is reasonable to write a check for the product rather than paying cash each time to one individual (particularly with large quantities of product).
- Keep all records for one year. RCW 76.48.085 states that anyone buying product must keep records of purchase that includes the seller's permit number, type of product purchased, permit holder's name, amount of product purchased, and license plate number of vehicle transporting product.

See Chapter 19.30 RCW, Farm Labor Contractors, Chapter 296-310 WAC, Farm Labor Contracting Rules, and Chapter 76.48 RCW, Specialized Forest Products for full requirements. For further information, contact the Department at the address or phone number listed at the top of this page.

F700-113-000 employment standards shed checklist 8-03

CHECKLIST ITEM #6. HOW MUCH PRODUCT DID THE SELLER BRING IN?

The following chart is provided to assist you in determining if the product being sold was harvested by one person or by multiple people, indicating if the seller might be a Farm Labor Contractor.

Product Type: The left column lists a specific specialty forest product that is harvested and sold in Washington State.

Amount per person per day: The middle column indicates what one person could do in one day if that individual was an excellent picker and the land conditions were superb for picking.

Two-Day Total: The third column indicates the threshold for product that one person could pick in a two-day period in superb conditions. Since most products can only be kept for two days before the product begins to deteriorate, it is reasonable to believe that product must be sold within two days of picking.

IF THE QUANTITY OF PRODUCT BROUGHT IN IS GREATER THAN THAT LISTED IN THE FAR RIGHT COLUMN, IT IS REASONABLE TO CONCLUDE THE SELLER IS A FARM LABOR CONTRACTOR, as it would take two or more people to harvest these amounts of product.

QUANTITY OF PRODUCT		
Product Type	Amount per person per day	Two-Day Total (Possible FLC if quantity is more than this amount)
Salal Tips	250 bunches	Greater than 500 bunches
Salal Long	150 bunches	Greater than 300 bunches
Boughs	2,000 pounds	Greater than 4,000 pounds
Huckleberry	150 bunches	Greater than 300 bunches
Bear grass	1,000 pounds	Greater than 2,000 pounds
Bear grass (cleaning)	800 bunches	Greater than 1,600 bunches

The list was compiled through a survey of landowners, sheds, and harvesters. The product type constitutes 95% of harvested product in Washington State; therefore it is not inclusive of all specialty forest products. The amount is an average for each product from all submitted surveys.

SHED OPERATOR PURCHASING LEDGER

This ledger is provided by Labor and Industries to assist the shed operator in complying with all applicable laws associated with the specialized forest products industry.

How To Use This Ledger: The numbered boxes correlate to the checklist items on the accompanying “Shed Checklist”. For example, the box marked “1. Is seller an FLC?” correlates to item number 1 on the checklist item, “Ask if seller is a Farm Labor Contractor”. The second box, “ 2. Does permit and name on ID match?” correlates to checklist item number 2, “Check name on forest product removal permit...” and so on through number 7.

Date	1a. Is seller an FLC? (Yes or No) If YES, fill in boxes 1b and 1c.	1b. Record name (N) of licensee and license number (#).	1c. Record license date of issuance (I) and expiration (E).	2. Does name on permit and name on identification match? (Record name (N) and ID of seller)	3a. Is permit a True Copy? (Yes or No) Record data from permit in 3b, 3c , 3d and 3e.	3b. Record name of permittee	3c. Record date or permit issuance (I) and expiration (E).	3d. Location from where product was harvested.	3e. Amount or volume of product allowed per permit	4. Product (Record type of product)	5. Vehicle License number (Record license number)	6. Quantity of product (Record quantity of product bought)	7. Picked when? (Record date product harvested)
	<input type="checkbox"/> Yes	N:	I:	N:	<input type="checkbox"/> Yes		I:						
	<input type="checkbox"/> No	#:	E:	ID:	<input type="checkbox"/> No		E:						
	<input type="checkbox"/> Yes	N:	I:	N:	<input type="checkbox"/> Yes		I:						
	<input type="checkbox"/> No	#:	E:	ID:	<input type="checkbox"/> No		E:						
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LANDOWNER CHECKLIST

The Department of Labor and Industries and landowners, business operators, associations, and workers of the special forest products industry have created the following list of questions to assist landowners in complying with Farm Labor Contractor laws. This list is intended to help Landowners avoid liability by identifying purchasers of permits that may be unlicensed Farm Labor Contractors (FLC's). "Liability" means that the landowner could be responsible for unpaid wages and other financial obligations of the FLC. The landowner should also review the FLC Checklist to assess if he or she is a farm labor contractor.

WHO IS A FARM LABOR CONTRACTOR?

A Farm Labor Contractor is an individual, firm, partnership, association, corporation or government agency that, for a fee, recruits, solicits, employs, supplies, transports, or hires agricultural workers. Agricultural workers are employed for growing, producing or harvesting farm or nursery products, or in the forestation or reforestation of lands or other related activities. "Fee" includes anything that is received in exchange for FLC services.

HOW DOES THIS AFFECT ME?

RCW 19.30.200 states: "Any person who *knowingly* uses services of unlicensed farm labor contractor shall be personally, jointly and severally liable." (Italics added) Additionally, there are remedies and penalties for failing to comply with applicable statutes and rules, including fines of up to \$1000, potential right of action, and liens against bonds.

HOW CAN I PROTECT MYSELF?

The following checklist and business practices can be used as a tool in determining the scope of responsibilities. The accompanying ledger can be used as a checklist to assist you in your determination, and may be supplied to a Department employee during an audit.

Place a checkmark in the box (☐) corresponding to the provided response.

Checklist Item	Business Practice
1. Ask the person who is purchasing the permit if he or she is a Farm Labor Contractor. <input type="checkbox"/> Yes <input type="checkbox"/> No	Asking questions, following the checklist, and using the ledger will help a landowner establish that they are trying to do the right thing. If the purchaser is a farm labor contractor (FLC), then they must have the FLC license on them--ask to see the license. If they say no to this first question, continue on through this checklist. "Digging a little deeper" may provide answers that help you avoid liability.
2. When selling a permit, check the identity, address and phone number of permit purchaser by looking at drivers license or other form of valid picture identification. <input type="checkbox"/> Performed <input type="checkbox"/> Not performed	RCW 76.48.050(8): The law requires that the seller of a permit must record the number from some type of valid picture ID on the permit. Checking the identification and assessing its validity helps reduce liability as a landowner.
3. Proof of insurance: Vehicle and Liability insurance are required in the State of Washington. <input type="checkbox"/> Have proper insurance <input type="checkbox"/> Do not have proper insurance	Both the Farm Labor Contractor rules (WAC 296-310-040) and the General Insurance statute (Title 48 RCW) require proof of vehicle and liability insurance. A farm labor contractor is required to have insurance if they transport employees. Ask to look at their insurance cards to help alleviate your liability.
4. Ask how many people will be harvesting off the permit. Number of people:	If their answer is more than one person, then the permit seller should continue the evaluation by asking question 5 from the checklist.
5. Ask the purchaser if they recruit, solicit, employ, supply, transport, or hire agricultural workers (employees) for harvesting product (this is the definition of a farm labor contractor). <input type="checkbox"/> Yes they do <input type="checkbox"/> No they do not	RCW 19.30.200: If they answer "Yes", then they are required to be licensed with Labor and Industries. Otherwise the landowner could be held liable for all obligations of the farm labor contractor. Contact L&I and provide us the name of the individual.

Additional decision making elements and considerations:

- After completing the checklist, ask yourself again "is this person a farm labor contractor?" If the permit purchaser cannot demonstrate compliance with the requirements noted above, they may be in violation of the law. Selling a permit to this person may increase your liability as a landowner. Contact L&I about this individual or to receive additional guidance.
- Review the lease and sale language in contracts. Landowners have indicated that contract modifications may be necessary to better protect them and ensure compliance with the Farm Labor statutes, again helping to avoid liability.
- RCW 76.48.050(5) requires the seller of a permit to specify the approximate amount of product to be harvested. The permit cannot state "unlimited" amount; but recording "not to exceed X amount" on the permit is a viable alternative. This specificity creates a benchmark for the purchaser of the product (a shed) to begin their assessment of "is this a Farm Labor Contractor".

See Chapter 19.30 RCW, Farm Labor Contractors, Chapter 296-310 WAC, Farm Labor Contracting Rules, and Chapter 76.48 RCW, Specialized Forest Products for full requirements. For further information, contact the Department at the address or phone number listed at the top of this page.

LANDOWNER PERMIT LEDGER

This ledger is provided by Labor and Industries to assist the landowner in complying with all applicable laws associated with the specialized forest products industry.

How To Use This Ledger: The numbered boxes correlate to the checklist items on the accompanying “Landowner Checklist”. For example, the box marked “1. Is purchaser an FLC?” correlates to item number 1 on the checklist item, “Ask if permit purchaser is a Farm Labor Contractor”. The second box, “2. Check ID and Name” correlates to item number 2, “When selling permit, check identity, address and phone number of permit purchaser...” and so on.

Date	1a. Is purchaser an FLC? (Yes or No) If YES, fill in boxes 1b and 1c.	1b. Record name of licensee (N) and license number (#).	1c. Record license date of issuance (I) and expiration (E).	2. Check identification and name? (Record Name and Driver’s License or Identification number)	3. Proof of Insurance? (Yes or No)	4. Number of harvesters? (Record number of harvesters)	5. Does permit purchaser satisfy any element of the FLC definition? (Yes or No)
	<input type="checkbox"/> Yes <input type="checkbox"/> No	N: #:	I: E:		<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	N: #:	I: E:		<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	N: #:	I: E:		<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	N: #:	I: E:		<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	N: #:	I: E:		<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	N: #:	I: E:		<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	N: #:	I: E:		<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No

Chapter 19.30 RCW FARM LABOR CONTRACTORS

SECTIONS

- [19.30.010](#) Definitions.
- [19.30.020](#) License required -- Duplicates.
- [19.30.030](#) Applicants -- Qualifications -- Fee -- Liability insurance.
- [19.30.040](#) Surety bond -- Security.
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- [19.30.200](#) Unlicensed farm labor contractors -- Liability for services.
- [19.30.900](#) Severability -- 1955 c 392.
- [19.30.901](#) Severability -- 1985 c 280.
- [19.30.902](#) Effective date -- 1985 c 280.

RCW 19.30.010

Definitions.

As used in this chapter:

(1) "Person" includes any individual, firm, partnership, association, corporation, or unit or agency of state or local government.

(2) "Farm labor contractor" means any person, or his or her agent or subcontractor, who, for a fee, performs any farm labor contracting activity.

(3) "Farm labor contracting activity" means recruiting, soliciting, employing, supplying, transporting, or hiring agricultural employees.

(4) "Agricultural employer" means any person engaged in agricultural activity, including the growing, producing, or harvesting of farm or nursery products, or engaged in the forestation or reforestation of lands, which includes but is not limited to the planting, transplanting, tubing, precommercial thinning, and thinning of trees and seedlings, the clearing, piling, and disposal of brush and slash, the harvest of Christmas trees, and other related activities.

(5) "Agricultural employee" means any person who renders personal services to, or under the direction of, an agricultural employer in connection with the employer's agricultural activity.

(6) This chapter shall not apply to employees of the employment security department acting in their official capacity or their agents, nor to any common carrier or full time regular employees thereof while transporting agricultural employees, nor to any person who performs any of the services enumerated in subsection (3) of this section only within the scope of his or her regular employment for one agricultural employer on whose behalf he or she is so acting, unless he or she is receiving a commission or fee, which commission or fee is determined by the number of workers recruited, or to a nonprofit corporation or organization which performs the same functions for its members. Such nonprofit corporation or organization shall be one in which:

(a) None of its directors, officers, or employees are deriving any profit beyond a reasonable salary for services performed in its behalf.

(b) Membership dues and fees are used solely for the maintenance of the association or corporation.

(7) "Fee" means:

(a) Any money or other valuable consideration paid or promised to be paid for services rendered or to be rendered by a farm labor contractor.

(b) Any valuable consideration received or to be received by a farm labor contractor for or in connection with any of the services described in subsection (3) of this section, and shall include the difference between any amount received or to be received by him, and the amount paid out by him for or in connection with the rendering of such services.

(8) "Director" as used in this chapter means the director of the department of labor and industries of the state of Washington.

[1985 c 280 § 1; 1955 c 392 § 1.]

RCW 19.30.020

License required -- Duplicates.

No person shall act as a farm labor contractor until a license to do so has been issued to him or her by

the director, and unless such license is in full force and effect and is in the contractor's possession. The director shall, by regulation, provide a means of issuing duplicate licenses in case of loss of the original license or any other appropriate instances. The director shall issue, on a monthly basis, a list of currently licensed farm labor contractors.

[1985 c 280 § 2; 1955 c 392 § 2.]

RCW 19.30.030

Applicants -- Qualifications -- Fee -- Liability insurance.

The director shall not issue to any person a license to act as a farm labor contractor until:

(1) Such person has executed a written application on a form prescribed by the director, subscribed and sworn to by the applicant, and containing (a) a statement by the applicant of all facts required by the director concerning the applicant's character, competency, responsibility, and the manner and method by which he or she proposes to conduct operations as a farm labor contractor if such license is issued, and (b) the names and addresses of all persons financially interested, either as partners, stockholders, associates, profit sharers, or providers of board or lodging to agricultural employees in the proposed operation as a labor contractor, together with the amount of their respective interests;

(2) The director, after investigation, is satisfied as to the character, competency, and responsibility of the applicant;

(3) The applicant has paid to the director a license fee of: (1) Thirty-five dollars in the case of a farm labor contractor not engaged in forestation or reforestation, or (2) one hundred dollars in the case of a farm labor contractor engaged in forestation or reforestation or such other sum as the director finds necessary, and adopts by rule, for the administrative costs of evaluating applications;

(4) The applicant has filed proof satisfactory to the director of the existence of a policy of insurance with any insurance carrier authorized to do business in the state of Washington in an amount satisfactory to the director, which insures the contractor against liability for damage to persons or property arising out of the contractor's operation of, or ownership of, any vehicle or vehicles for the transportation of individuals in connection with the contractor's business, activities, or operations as a farm labor contractor;

(5) The applicant has filed a surety bond or other security which meets the requirements set forth in RCW [19.30.040](#);

(6) The applicant executes a written statement which shall be subscribed and sworn to and shall contain the following declaration:

"With regards to any action filed against me concerning my activities as a farm labor contractor, I appoint the director of the Washington department of labor and industries as my lawful agent to accept service of summons when I am not present in the jurisdiction in which the action is commenced or have in any other way become unavailable to accept service"; and

(7) The applicant has stated on his or her application whether or not his or her contractor's license or the license of any of his or her agents, partners, associates, stockholders, or profit sharers has ever been

suspended, revoked, or denied by any state or federal agency, and whether or not there are any outstanding judgments against him or her or any of his or her agents, partners, associates, stockholders, or profit sharers in any state or federal court arising out of activities as a farm labor contractor.

[1985 c 280 § 3; 1955 c 392 § 3.]

RCW 19.30.040

Surety bond -- Security.

(1) The director shall require the deposit of a surety bond by any person acting as a farm labor contractor under this chapter to insure compliance with the provisions of this chapter. Such bond shall be in an amount specified by the director in accordance with such criteria as the director adopts by rule but shall not be less than five thousand dollars. The bond shall be payable to the state of Washington and be conditioned on payment of sums legally owing under contract to an agricultural employee. The aggregate liability of the surety upon such bond for all claims which may arise thereunder shall not exceed the face amount of the bond.

(2) The amount of the bond may be raised or additional security required by the director, upon his or her own motion or upon petition to the director by any person, when it is shown that the security or bond is insufficient to satisfy the contractor's potential liability for the licensed period.

(3) No surety insurer may provide any bond, undertaking, recognizance, or other obligation for the purpose of securing or guaranteeing any act, duty, or obligation, or the refraining from any act with respect to a contract using the services of a farm labor contractor unless the farm labor contractor has made application for or has a valid license issued under RCW [19.30.030](#) at the time of issuance of the bond, undertaking, recognizance, or other obligation.

(4) Surety bonds may not be canceled or terminated during the period in which the bond is executed unless thirty days' notice is provided by the surety to the department. The bond is written for a one-year term and may be renewed or extended by continuation certification at the option of the surety.

(5) In lieu of the surety bond required by this section, the contractor may file with the director a deposit consisting of cash or other security acceptable to the director. The deposit shall not be less than five thousand dollars in value. The security deposited with the director in lieu of the surety bond shall be returned to the contractor at the expiration of three years after the farm labor contractor's license has expired or been revoked if no legal action has been instituted against the contractor or on the security deposit at the expiration of the three years.

(6) If a contractor has deposited a bond with the director and has failed to comply with the conditions of the bond as provided by this section, and has departed from this state, service may be made upon the surety as prescribed in RCW 4.28.090.

[1987 c 216 § 1; 1986 c 197 § 15; 1985 c 280 § 4; 1955 c 392 § 4.]

RCW 19.30.045

Claim for wages -- Action upon surety bond or security.

(1) Any person, having a claim for wages pursuant to this chapter may bring suit upon the surety bond

or security deposit filed by the contractor pursuant to RCW [19.30.040](#), in any court of competent jurisdiction of the county in which the claim arose, or in which either the claimant or contractor resides.

- (2) The right of action is assignable in the name of the director or any other person.

[1987 c 216 § 2; 1986 c 197 § 19.]

RCW 19.30.050

License -- Grounds for denying.

A license to operate as a farm labor contractor shall be denied:

- (1) To any person who sells or proposes to sell intoxicating liquors in a building or on premises where he or she operates or proposes to operate as a farm labor contractor, or

- (2) To a person whose license has been revoked within three years from the date of application.

[1985 c 280 § 5; 1955 c 392 § 5.]

RCW 19.30.060

License -- Revocation, suspension, refusal to issue or renew.

Any person may protest the grant or renewal of a license under this section. The director may revoke, suspend, or refuse to issue or renew any license when it is shown that:

- (1) The farm labor contractor or any agent of the contractor has violated or failed to comply with any of the provisions of this chapter;

- (2) The farm labor contractor has made any misrepresentations or false statements in his or her application for a license;

- (3) The conditions under which the license was issued have changed or no longer exist;

- (4) The farm labor contractor, or any agent of the contractor, has violated or wilfully aided or abetted any person in the violation of, or failed to comply with, any law of the state of Washington regulating employment in agriculture, the payment of wages to farm employees, or the conditions, terms, or places of employment affecting the health and safety of farm employees, which is applicable to the business activities, or operations of the contractor in his or her capacity as a farm labor contractor;

- (5) The farm labor contractor or any agent of the contractor has in recruiting farm labor solicited or induced the violation of any then existing contract of employment of such laborers; or

- (6) The farm labor contractor or any agent of the contractor has an unsatisfied judgment against him or her in any state or federal court, arising out of his or her farm labor contracting activities.

The director shall immediately suspend the license or certificate of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order or a *residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

[1997 c 58 § 846; 1985 c 280 § 6; 1955 c 392 § 6.]

NOTES:

***Reviser's note:** 1997 c 58 § 887 requiring a court to order certification of noncompliance with residential provisions of a court-ordered parenting plan was vetoed. Provisions ordering the department of social and health services to certify a responsible parent based on a court order to certify for noncompliance with residential provisions of a parenting plan were vetoed. See RCW 74.20A.320.

Short title -- Part headings, captions, table of contents not law -- Exemptions and waivers from federal law -- Conflict with federal requirements -- Severability -- 1997 c 58: See RCW 74.08A.900 through 74.08A.904.

Effective dates -- Intent -- 1997 c 58: See notes following RCW 74.20A.320.

RCW 19.30.070

License -- Contents.

Each license shall contain, on the face thereof:

- (1) The name and address of the licensee and the fact that he or she is licensed to act as a farm labor contractor for the period upon the face of the license only;
- (2) The number, date of issuance, and date of expiration of the license;
- (3) The amount of the surety bond deposited by the licensee;
- (4) The fact that the license may not be transferred or assigned; and
- (5) A statement that the licensee is or is not licensed to transport workers.

[1985 c 280 § 7; 1955 c 392 § 7.]

RCW 19.30.081

License -- Duration -- Renewal.

Farm labor contractors may hold either a one-year license or a two-year license, at the director's discretion.

The one-year license shall run to and include the 31st day of December next following the date thereof unless sooner revoked by the director. A license may be renewed each year upon the payment

of the annual license fee, but the director shall require that evidence of a renewed bond be submitted and that the contractor have a bond in full force and effect.

The two-year license shall run to and include the 31st day of December of the year following the year of issuance unless sooner revoked by the director. This license may be renewed every two years under the same terms as the one-year license, except that a farm labor contractor possessing a two-year license shall have evidence of a bond in full force and effect, and file an application on which he or she shall disclose all information required by RCW [19.30.030](#) (1)(b), (4), and (7).

[1987 c 216 § 3; 1986 c 197 § 16; 1985 c 280 § 8.]

RCW 19.30.090

License -- Application for renewal.

All applications for renewal shall state the names and addresses of all persons financially interested either as partners, associates or profit sharers in the operation as a farm labor contractor.

[1955 c 392 § 9.]

RCW 19.30.110

Farm labor contractor -- Duties.

Every person acting as a farm labor contractor shall:

- (1) Carry a current farm labor contractor's license at all times and exhibit it to all persons with whom the contractor intends to deal in the capacity of a farm labor contractor prior to so dealing.
- (2) Disclose to every person with whom he or she deals in the capacity of a farm labor contractor the amount of his or her bond and the existence and amount of any claims against the bond.
- (3) File at the United States post office serving the address of the contractor, as noted on the face of the farm labor contractor's license, a correct change of address immediately upon each occasion the contractor permanently moves his or her address, and notify the director within ten days after an address change is made.
- (4) Promptly when due, pay or distribute to the individuals entitled thereto all moneys or other things of value entrusted to the contractor by any third person for such purpose.
- (5) Comply with the terms and provisions of all legal and valid agreements and contracts entered into between the contractor in the capacity of a farm labor contractor and third persons.
- (6) File information regarding work offers with the nearest employment service office, such information to include wages and work to be performed and any other information prescribed by the director.
- (7) On a form prescribed by the director, furnish to each worker, at the time of hiring, recruiting, soliciting, or supplying, whichever occurs first, a written statement in English and any other language common to workers who are not fluent or literate in English that contains a description of:

(a) The compensation to be paid and the method of computing the rate of compensation;

(b) The terms and conditions of any bonus offered, including the manner of determining when the bonus is earned;

(c) The terms and conditions of any loan made to the worker;

(d) The conditions of any transportation, housing, board, health, and day care services or any other employee benefit to be provided by the farm labor contractor or by his or her agents, and the costs to be charged for each of them;

(e) The terms and conditions of employment, including the approximate length of season or period of employment and the approximate starting and ending dates thereof, and the crops on which and kinds of activities in which the worker may be employed;

(f) The terms and conditions under which the worker is furnished clothing or equipment;

(g) The place of employment;

(h) The name and address of the owner of all operations, or the owner's agent, where the worker will be working as a result of being recruited, solicited, supplied, or employed by the farm labor contractor;

(i) The existence of a labor dispute at the worksite;

(j) The name and address of the farm labor contractor;

(k) The existence of any arrangements with any owner or agent of any establishment at the place of employment under which the farm labor contractor is to receive a fee or any other benefit resulting from any sales by such establishment to the workers; and

(l) The name and address of the surety on the contractor's bond and the workers' right to claim against the bond.

(8) Furnish to the worker each time the worker receives a compensation payment from the farm labor contractor, a written statement itemizing the total payment and the amount and purpose of each deduction therefrom, hours worked, rate of pay, and pieces done if the work is done on a piece rate basis, and if the work is done under the Service Contract Act (41 U.S.C. Secs. 351 through 401) or related federal or state law, a written statement of any applicable prevailing wage.

(9) With respect to each worker recruited, solicited, employed, supplied, or hired by the farm labor contractor:

(a) Make, keep, and preserve for three years a record of the following information:

(i) The basis on which wages are paid;

(ii) The number of piecework units earned, if paid on a piecework basis;

- (iii) The number of hours worked;
- (iv) The total pay period earnings;
- (v) The specific sums withheld and the purpose of each sum withheld; and
- (vi) The net pay; and

(b) Provide to any other farm labor contractor and to any user of farm labor for whom he or she recruits, solicits, supplies, hires, or employs workers copies of all records, with respect to each such worker, which the contractor is required by this chapter to make, keep, and preserve. The recipient of such records shall keep them for a period of three years from the end of the period of employment. When necessary to administer this chapter, the director may require that any farm labor contractor provide the director with certified copies of his or her payroll records for any payment period.

The record-keeping requirements of this chapter shall be met if either the farm labor contractor or any user of the contractor's services makes, keeps, and preserves for the requisite time period the records required under this section, and so long as each worker receives the written statements specified in subsection (8) of this section.

[1985 c 280 § 9; 1955 c 392 § 11.]

RCW 19.30.120

Farm labor contractor -- Prohibited acts.

No person acting as a farm labor contractor shall:

- (1) Make any misrepresentation or false statement in an application for a license.
- (2) Make or cause to be made, to any person, any false, fraudulent, or misleading representation, or publish or circulate or cause to be published or circulated any false, fraudulent, or misleading information concerning the terms or conditions or existence of employment at any place or places, or by any person or persons, or of any individual or individuals.
- (3) Send or transport any worker to any place where the farm labor contractor knows a strike or lockout exists.
- (4) Do any act in the capacity of a farm labor contractor, or cause any act to be done, which constitutes a crime involving moral turpitude under any law of the state of Washington.

[1985 c 280 § 10; 1955 c 392 § 12.]

RCW 19.30.130

Rules -- Adjustment of controversies.

- (1) The director shall adopt rules not inconsistent with this chapter for the purpose of enforcing and administering this chapter.

(2) The director shall investigate and attempt to adjust equitably controversies between farm labor contractors and their workers with respect to claims arising under this chapter.

[1985 c 280 § 11; 1955 c 392 § 14.]

RCW 19.30.150

Penalties.

Any person who violates any provisions of this chapter, or who causes or induces another to violate any provisions of this chapter, shall be guilty of a misdemeanor punishable by a fine of not more than five thousand dollars, or imprisonment in the county jail for not more than six months, or both.

[1955 c 392 § 13.]

RCW 19.30.160

Civil penalty -- Hearing -- Court action.

(1) In addition to any criminal penalty imposed under RCW [19.30.150](#), the director may assess against any person who violates this chapter, or any rule adopted under this chapter, a civil penalty of not more than one thousand dollars for each violation.

(2) The person shall be afforded the opportunity for a hearing, upon request to the director made within thirty days after the date of issuance of the notice of assessment. The hearing shall be conducted in accordance with chapter 34.05 RCW.

(3) If any person fails to pay an assessment after it has become a final and unappealable order, or after the court has entered final judgment in favor of the agency, the director shall refer the matter to the state attorney general, who shall recover the amount assessed by action in the appropriate superior court. In such action, the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

(4) Without regard to other remedies provided in this chapter, the department may bring suit upon the surety bond filed by the farm labor contractor on behalf of a worker whose rights under this chapter have been violated by the contractor. The action may be commenced in any court of competent jurisdiction. In any such action, there shall be compliance with the notice and service requirements set forth in RCW [19.30.170](#).

[1987 c 216 § 4; 1986 c 197 § 17; 1985 c 280 § 15.]

RCW 19.30.170

Civil actions -- Damages, costs, attorney's fees -- Actions upon bond or security deposit.

(1) After filing a notice of a claim with the director, in addition to any other penalty provided by law, any person aggrieved by a violation of this chapter or any rule adopted under this chapter may bring suit in any court of competent jurisdiction of the county in which the claim arose, or in which either the plaintiff or respondent resides, without regard to the amount in controversy and without regard to exhaustion of any alternative administrative remedies provided in this chapter. No such action may be commenced later than three years after the date of the violation giving rise to the right of action. In any

such action the court may award to the prevailing party, in addition to costs and disbursements, reasonable attorney fees at trial and appeal.

(2) In any action under subsection (1) of this section, if the court finds that the respondent has violated this chapter or any rule adopted under this chapter, it may award damages up to and including an amount equal to the amount of actual damages, or statutory damages of five hundred dollars per plaintiff per violation, whichever is greater, or other equitable relief.

(3) Without regard to other remedies provided in this chapter, a person having a claim against the farm labor contractor for any violation of this chapter may bring suit against the farm labor contractor and the surety bond or security deposit filed by the contractor pursuant to RCW [19.30.040](#), in any court of competent jurisdiction of the county in which the claim arose, or in which either the claimant or contractor resides.

(4) An action upon the bond or security deposit shall be commenced by serving and filing the summons and complaint within three years from the date of expiration or cancellation of the bond or expiration or cancellation of the license, whichever is sooner, or in the case of a security deposit, within three years of the date of expiration or revocation of the license.

(5) A copy of the summons and complaint in any such action shall be served upon the director at the time of commencement of the action and the director shall maintain a record, available for public inspection, of all suits so commenced. Such service shall constitute service on the farm labor contractor and the surety for suit upon the bond and the director shall transmit the complaint or a copy thereof to the contractor at the address listed in his or her application and to the surety within forty-eight hours after it has been received.

(6) The surety upon the bond may, upon notice to the director and the parties, tender to the clerk of the court having jurisdiction of the action an amount equal to the claims or the amount of the bond less the amount of judgments, if any, previously satisfied therefrom and to the extent of such tender the surety upon the bond shall be exonerated.

(7) If the actions commenced and pending at any one time exceed the amount of the bond then unimpaired, the claims shall be satisfied from the bond in the following order:

- (a) Wages, including employee benefits;
- (b) Other contractual damage owed to the employee;
- (c) Any costs and attorneys' fees the claimant may be entitled to recover by contract or statute.

(8) If any final judgment impairs the bond so furnished so that there is not in effect a bond undertaking in the full amount prescribed by the director, the director shall suspend the license of the contractor until the bond liability in the required amount unimpaired by unsatisfied judgment claims has been furnished. If such bond becomes fully impaired, a new bond must be furnished.

(9) A claimant against a security deposit shall be entitled to damages under subsection (2) of this section. If the farm labor contractor has filed other security with the director in lieu of a surety bond, any person having an unsatisfied final judgment against the contractor for any violation of this chapter

may execute upon the security deposit held by the director by serving a certified copy of the unsatisfied final judgment by registered or certified mail upon the director. Upon the receipt of service of such certified copy, the director shall pay or order paid from the deposit, through the registry of the court which rendered judgment, towards the amount of the unsatisfied judgment. The priority of payment by the director shall be the order of receipt by the director, but the director shall have no liability for payment in excess of the amount of the deposit.

[1987 c 216 § 5; 1986 c 197 § 18; 1985 c 280 § 16.]

RCW 19.30.180

Injunctions -- Costs -- Attorney fee.

The director or any other person may bring suit in any court of competent jurisdiction to enjoin any person from using the services of an unlicensed farm labor contractor or to enjoin any person acting as a farm labor contractor in violation of this chapter, or any rule adopted under this chapter, from committing future violations. The court may award to the prevailing party costs and disbursements and a reasonable attorney fee.

[1985 c 280 § 12.]

RCW 19.30.190

Retaliation against employee prohibited.

No farm labor contractor or agricultural employer may discharge or in any other manner discriminate against any employee because:

- (1) The employee has made a claim against the farm labor contractor or agricultural employer for compensation for the employee's personal services.
- (2) The employee has caused to be instituted any proceedings under or related to RCW [19.30.180](#).
- (3) The employee has testified or is about to testify in any such proceedings.
- (4) The employee has discussed or consulted with anyone concerning the employee's rights under this chapter.

[1985 c 280 § 13.]

RCW 19.30.200

Unlicensed farm labor contractors -- Liability for services.

Any person who knowingly uses the services of an unlicensed farm labor contractor shall be personally, jointly, and severally liable with the person acting as a farm labor contractor to the same extent and in the same manner as provided in this chapter. In making determinations under this section, any user may rely upon either the license issued by the director to the farm labor contractor under RCW [19.30.030](#) or the director's representation that such contractor is licensed as required by this chapter.

[2000 c 171 § 48; 1985 c 280 § 14.]

RCW 19.30.900**Severability -- 1955 c 392.**

If any section, sentence, clause or word of this chapter shall be held unconstitutional, the invalidity of such section, sentence, clause or word shall not affect the validity of any other portion of this chapter, it being the intent of this legislative assembly to enact the remainder of this chapter notwithstanding such part so declared unconstitutional should or may be so declared.

[1955 c 392 § 17.]

RCW 19.30.901**Severability -- 1985 c 280.**

If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

[1985 c 280 § 18.]

RCW 19.30.902**Effective date -- 1985 c 280.**

This 1985 act shall take effect January 1, 1986.

[1985 c 280 § 19.]

Chapter 296-310 WAC FARM LABOR CONTRACTING RULES

Last Update: 12/11/85

WAC SECTIONS

- [296-310-010](#) Definitions.
- [296-310-020](#) Application for initial and renewed licenses.
- [296-310-030](#) Denial of license.
- [296-310-040](#) Requirements for a license to transport employees.
- [296-310-050](#) Amount of bond or security.
- [296-310-060](#) Fees.
- [296-310-070](#) Duplicate licenses.
- [296-310-080](#) Length of license period.
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WAC 296-310-010 Definitions. For the purposes of this chapter:

- (1) "Agricultural employee" means any person who renders personal services to, or under the direction of, an agricultural employer in connection with the employer's agricultural activity.
- (2) "Agricultural employer" means any person engaged in agricultural activity, including the growing, producing, or harvesting of farm or nursery products, or engaged in the forestation or reforestation of lands, which includes but is not limited to the planting, transplanting, tubing, precommercial thinning, and

thinning of trees and seedlings, the clearing, piling, and disposal of brush and slash, the harvest of Christmas trees, and other related activities.

(3) "Bonded contractor" means a contractor who obtained a surety bond in order to comply with RCW 19.30.030(5).

(4) "Contractor" means a farm labor contractor.

(5) "Department" means the department of labor and industries.

(6) "Director" means the director of the department of labor and industries.

(7) "Employee" means an agricultural employee.

(8) "Farm labor contractor" means any person, or his or her agent or subcontractor, who, for a fee, performs any farm labor contracting activity.

(9) "License" means a farm labor contractor license.

(10) "Secured contractor" means a contractor who assigned a savings account to, or deposited cash or other security with, the department in order to comply with RCW 19.30.030(5).

(11) "Security" means a savings account assigned to, or cash or other security deposited with, the department.

[Statutory Authority: RCW 19.30.130. 86-01-027 (Order 85-34), § 296-310-010, filed 12/11/85.]

WAC 296-310-020 Application for initial and renewed licenses. (1) To obtain a license, a contractor must:

(a) Complete an application for a license;

(b) Provide the information required by RCW 19.30.030 (1), (6), and (7);

(c) Obtain a surety bond or provide other acceptable security to the department. If the contractor obtains a bond, it must submit the original bond to the department;

(d) Obtain insurance and supply the information required by WAC [296-310-040](#)(2) if the contractor seeks a license to transport workers; and

(e) Pay the fee set by WAC [296-310-060](#).

(2) The department shall send a renewal notice to the contractor's last recorded address at least forty-five days before the contractor's license expires. The contractor may renew its license if it submits the renewal notice and provides the materials required in subsection (1)(b), (c), (d) if appropriate, and (e) of this section.

(3) The contractor must submit all materials to the department in one package. Each of the materials must name the contractor exactly as it is named on the application for license or the renewal notice. If the contractor is renewing its license, each of the materials must include the contractor's license number. If any of the materials are missing, do not properly name the contractor, or do not include the license number, the department shall refuse to license or renew the license of the contractor.

(4) The bond and the insurance policy must expire no sooner than the expiration date of the license for which the contractor has applied.

(5) Applications for issuance or renewal of a license must be sent to:

Department of Labor and Industries
ESAC Division
General Administration Building
Olympia WA 98504

[Statutory Authority: RCW 19.30.130. 86-01-027 (Order 85-34), § 296-310-020, filed 12/11/85.]

WAC 296-310-030 Denial of license. (1) The department may refuse to issue or renew a license for the reasons listed in RCW 19.30.050 and 19.30.060. If the department refuses a license for any of these reasons, it shall serve on the contractor a notice of denial of license. The notice of denial of license shall:

(a) Describe concisely the ground for denial of the license; and

(b) Specify the statutory authority for the denial.

The notice of denial shall inform the contractor that it may request a hearing pursuant to WAC [296-310-160](#) on the denial. The notice shall specify that if no hearing is requested within thirty days of the date of issuance of the notice the director shall issue a final, unappealable order denying the license.

(2) The department also shall refuse to issue a license to or renew the license of a contractor who fails to comply with WAC [296-310-020](#). The department shall inform the contractor of the problem either in writing or, if appropriate, orally. Because compliance with WAC [296-310-020](#) involves technical requirements that are entirely within the control of the contractor, no hearing shall be granted on a failure to comply.

[Statutory Authority: RCW 19.30.130. 86-01-027 (Order 85-34), § 296-310-030, filed 12/11/85.]

WAC 296-310-040 Requirements for a license to transport employees. (1) A contractor who intends to transport employees must obtain liability insurance. The department shall require public liability and property damage insurance that provides coverage, for each single occurrence and for each vehicle used to transport employees, in the following minimum amounts:

- (a) \$50,000 for injury or damage to property;
 - (b) \$100,000 for injury or damage, including death, to any one person; and
 - (c) \$500,000 for injury or damage, including death, to more than one person.
- (2) The contractor must also provide to the department evidence of the insurance policy or policies.

[Statutory Authority: RCW 19.30.130. 86-01-027 (Order 85-34), § 296-310-040, filed 12/11/85.]

WAC 296-310-050 Amount of bond or security. (1) A contractor must provide a bond or security in the following minimum amount:

(a) If the contractor employs or intends to employ:

(i)	From one to ten employees:	\$ 5,000
(ii)	From eleven to fifty employees:	\$10,000
(iii)	From fifty-one to one hundred employees:	\$15,000
(iv)	Over one hundred employees:	\$20,000

(b) If the contractor does not employ agricultural employees, but only recruits, solicits, supplies, transports, or hires employees for another person, and that person takes complete responsibility for payment of wages to the employees, the contractor shall obtain a \$5,000 bond or other security.

(2) If the contractor obtains a two-year license, the bond or security shall be twice the minimum amounts stated in subsection (1) of this section.

(3) The department may order the contractor to obtain a bond or security for an amount greater than the minimums set by subsections (1) and (2) of this section if the security or bond is insufficient to satisfy the contractor's potential liability for the license period. If the department determines that an increased bond is necessary, it shall serve on the contractor a notice to increase bond or security. The notice shall:

- (a) Describe concisely the reasons an increase in the bond or security is necessary;
- (b) Specify the statutory authority for the required increase; and
- (c) Grant the contractor thirty days from the date of issuance of the notice to obtain and provide to the department the increased bond or security.

The notice shall inform the contractor that it may request a hearing pursuant to WAC [296-310-160](#) on the order to increase the bond or security. The notice shall specify that if no hearing is requested within thirty days of the date of issuance of the notice the director shall issue a final, unappealable order requiring the contractor to submit the increased bond or security. The notice shall also specify that, if the contractor neither appeals nor obtains the increased bond or security within the thirty days, the department shall suspend the contractor's license.

(4) If the director issues a final, unappealed decision raising the amount of the bond or security, the

raised amount shall be required for all license periods after the date of issuance of the final decision unless the decision specifically states otherwise. A contractor may, if the circumstances that led to the increased amount change, file with the department a written petition to lower the amount. The petition shall specify the grounds that justify a lowering of the bond or security. The department shall investigate the petition and shall issue a new notice stating its decision on the bond amount. The contractor, if aggrieved, may appeal this new notice as provided in subsection (3) of this section.

[Statutory Authority: RCW 19.30.130. 86-01-027 (Order 85-34), § 296-310-050, filed 12/11/85.]

WAC 296-310-060 Fees. (1) The fee for a one-year license is:

- | | |
|---|----------|
| (a) For a contractor engaged in forestation or reforestation: | \$100.00 |
| (b) For all other contractors: | \$ 35.00 |
| (2) The fee for a two year license is: | |
| (a) For a contractor engaged in forestation or reforestation: | \$200.00 |
| (b) For all other contractors: | \$ 70.00 |

[Statutory Authority: RCW 19.30.130. 86-01-027 (Order 85-34), § 296-310-060, filed 12/11/85.]

WAC 296-310-070 Duplicate licenses. If a contractor loses its license, or if the license is stolen or destroyed, the contractor may obtain a duplicate license upon application to the department. The application must specify the reason a duplicate is necessary.

The duplicate license shall be stamped prominently with the word "duplicate." A new contractor license number shall be supplied to the contractor.

[Statutory Authority: RCW 19.30.130. 86-01-027 (Order 85-34), § 296-310-070, filed 12/11/85.]

WAC 296-310-080 Length of license period. A contractor who is obtaining its initial license shall be licensed for one year only. A contractor who is renewing its license may choose to obtain either a one-year or two-year license, unless the department informs the contractor that it may obtain only a one-year license.

All one-year licenses shall expire on December 31 of the year of issuance. All two-year licenses shall expire on December 31 of the year following the year of issuance.

[Statutory Authority: RCW 19.30.130. 86-01-027 (Order 85-34), § 296-310-080, filed 12/11/85.]

WAC 296-310-090 Change in business structure, name, address, or number of employees. (1) If a contractor changes its business structure (for example, if it changes from a partnership to a corporation, or if the partners in a partnership change), the contractor must apply for a new license in the manner required by WAC [296-310-020](#). If a contractor does not obtain a new license after a change in its business structure, its previous license may be invalid.

(2) If a contractor changes its name or address, it must notify the department within ten days.

(3) If a contractor begins employing agricultural employees, or increases the number of its employees, so that the bond or security is insufficient for that number of employees, the contractor must obtain a new bond or security in the amount required by WAC [296-310-050](#) and submit it to the department. The department need not issue a notice to increase the amount of bond or security in this situation.

[Statutory Authority: RCW 19.30.130. 86-01-027 (Order 85-34), § 296-310-090, filed 12/11/85.]

WAC 296-310-100 Cancellation of insurance or bond. (1) No surety company may cancel any bond issued to a contractor pursuant to RCW 19.30.040, unless the contractor previously submits another bond or other security, for the same amount, that covers the contractor's liability for the same period as that for the bond that is to be cancelled.

(2) A cancellation of a surety bond or insurance policy is effective thirty days after the department receives the cancellation notice, if the cancellation notice contains the following information:

- (a) The name of the contractor, exactly as it appears on the contractor's license;
- (b) The contractor's license number;
- (c) The contractor's business address;
- (d) The number of the bond or insurance policy that is to be cancelled;
- (e) The effective date of the bond or insurance policy that is to be cancelled; and
- (f) If the cancellation is of a surety bond, a certification that the contractor has previously obtained and submitted to the department a new bond or other security as required by subsection (1) of this section.

(3) To help the department process cancellations, the information in subsection (2) of this section should be provided in the order shown.

(4) The insurance and bonding companies should send cancellation notices to the department by certified or registered mail.

[Statutory Authority: RCW 19.30.130. 86-01-027 (Order 85-34), § 296-310-100, filed 12/11/85.]

WAC 296-310-110 Refund of security deposited with the department. (1) If a contractor is secured, the department shall release its interest in the security three years after the contractor's last license expired. The department shall not release its interest, however, if an unsatisfied judgment or claim is outstanding against the contractor.

(2) The department shall in any case release its interest in the security if the contractor provides a surety bond in the same amount that covers all of the periods in which the contractor was licensed for the previous three years, plus for the contractor's current license period if applicable.

[Statutory Authority: RCW 19.30.130. 86-01-027 (Order 85-34), § 296-310-110, filed 12/11/85.]

WAC 296-310-120 Revocation or suspension of license. (1) The department may revoke a contractor's license for the reasons listed in RCW 19.30.050(1) and 19.30.060. If the department revokes a license, it shall serve on the contractor a notice of revocation. The notice of revocation shall:

- (a) Describe concisely the ground for the revocation; and
- (b) Specify the statutory authority for the revocation.

The notice of revocation shall inform the contractor that it may request a hearing on the revocation. The notice shall specify that if no hearing is requested within thirty days after the date of issuance of the notice, the director shall issue a final, unappealable order revoking the contractor's license. The hearing may be requested pursuant to WAC [296-310-160](#).

(2) A contractor is entitled to retain its license only if it remains in compliance with the bonding and insurance requirements of RCW 19.30.030 and 19.30.040. If a contractor's surety bond or other security is impaired or becomes insufficient, the contractor's insurance policy is cancelled, or the contractor transports employees without insurance, the department shall suspend the contractor's license until the contractor obtains a new bond, other security, or insurance policy, eliminates the impairment to the bond or security, or ceases to transport workers. The contractor may not do business while its license is suspended.

The department shall inform the contractor in writing of the suspension and of the steps the contractor must take to remove the suspension. The contractor may not appeal a suspension of licensing.

[Statutory Authority: RCW 19.30.130. 86-01-027 (Order 85-34), § 296-310-120, filed 12/11/85.]

WAC 296-310-130 Submission of complaint. Any person may submit to the department a complaint alleging a violation of chapter 19.30 RCW or challenging an application for a license. The complaint must describe the alleged violation or ground for denying a license, and must identify the alleged violator or applicant. It would aid the department's investigation if the complaint also specifies:

- (1) The name and address of the complainant; and
- (2) The address of the alleged violator or applicant.

[Statutory Authority: RCW 19.30.130. 86-01-027 (Order 85-34), § 296-310-130, filed 12/11/85.]

WAC 296-310-140 Investigation of complaint. The department shall investigate a complaint unless the complaint was submitted more than three years after the date of the alleged violation. The department shall not investigate any complaint filed more than three years after the date of the violation.

[Statutory Authority: RCW 19.30.130. 86-01-027 (Order 85-34), § 296-310-140, filed 12/11/85.]

WAC 296-310-150 Notice of violation. (1) If the department determines that there is reasonable cause to believe that chapter 19.30 RCW has been violated, the department shall serve on the violator a notice of violation. The notice of violation shall:

- (a) Describe concisely the violation;
- (b) Specify which statute was violated;
- (c) If known, identify the employees who were affected by the violation;
- (d) If known and applicable, state the amount of unpaid wages or damages the violator owes;
- (e) State the penalty, if any, the department will assess for the violation; and
- (f) State whether the contractor's license is being revoked as a result of the violation.

(2) If the notice alleges that the contractor owes unpaid wages or damages, the department shall serve a copy of the notice of violation on the violator's surety bond company.

(3) The notice of violation shall inform the violator and, if applicable, its surety that they may request a hearing on the violation, the amount of unpaid wages or damages owed, or the penalty assessed. The notice shall specify that if no hearing is requested within thirty days after the date the notice was issued the director shall issue a final, unappealable order finding that the violation did occur, ordering the violator to pay any unpaid wages or damages, and assessing penalties.

[Statutory Authority: RCW 19.30.130. 86-01-027 (Order 85-34), § 296-310-150, filed 12/11/85.]

WAC 296-310-160 Appeal of notices. (1) The contractor or violator, or the violator's surety if the surety has an interest in the matter, may request a hearing on the matter asserted in a notice of denial of license, a notice of revocation, a notice of increased bond amount, or a notice of violation. One original and four copies of the request must be filed with the director within thirty days after the date the department issued the notice. A party requesting a hearing on a notice of violation must also serve a copy of the request on the surety or the violator as appropriate.

- (2) The request for hearing must be in writing and must specify:
 - (a) The name and address of the party requesting the hearing;
 - (b) The name and date of issuance of the notice that is being appealed;
 - (c) The matters contained in the notice that the requestor believes are erroneous;
 - (d) The reasons the notice is erroneous; and
 - (e) If a surety is appealing a notice of violation, the name and address of the violating contractor.

[Statutory Authority: RCW 19.30.130. 86-01-027 (Order 85-34), § 296-310-160, filed 12/11/85.]

WAC 296-310-170 Hearing on appeal of notice. (1) The director may hear an appeal personally or may delegate the authority to hold the hearing and draft a proposed decision to an administrative law judge pursuant to chapter 34.12 RCW. The plaintiff at the hearing shall be the department and the

defendants shall be the contractor or the violator and its surety. The department shall have the burden of proving, by a preponderance of the evidence, that the matters stated in the notice occurred.

(2) Any person who has standing may, upon motion, be allowed to intervene as a plaintiff in a hearing on a notice of violation. Any interested person, whether or not admitted as a plaintiff, may submit written arguments and affidavits in any hearing.

(3) The hearing shall be conducted in accordance with the uniform procedure rules, chapter 1-08 WAC.

(4) If the director presides over the hearing, the director shall issue a final decision that includes findings of fact and conclusions of law and, if appropriate for a violation, an order to pay unpaid wages, damages, or a penalty.

(5) If an administrative law judge presides over the hearing, she or he shall issue a proposed decision that includes findings of fact and conclusions of law and, if appropriate for a violation, an order to pay unpaid wages, damages, or a penalty. The proposed decision shall be served on the contractor or the violator and its surety, the department, and any persons who have intervened as plaintiffs. Any of these parties, if aggrieved by the proposed decision, may appeal to the director within thirty days after the date of issuance of the proposed decision. If none of the parties appeals within thirty days, the proposed decision may not be appealed either to the director or the courts. A copy of the proposed decision shall also be mailed to all persons who submitted written arguments or affidavits at the hearing.

(6) An appellant must file with the director an original and four copies of its notice of appeal. The notice of appeal must specify which findings and conclusions are erroneous. The appellant must attach to the notice the written arguments supporting its appeal.

The appellant must serve a copy of the notice of appeal and the arguments on the other parties. The respondent parties must file with the director their written arguments within thirty days after the date the notice of appeal and the arguments were served upon them.

(7) The director shall review the proposed decision in accordance with the Administrative Procedure Act, chapter 34.04 RCW. The director may: Require the parties to specify the portions of the record on which the parties rely; require the parties to submit additional information by affidavit or certificate; remand the matter to the administrative law judge for further proceedings; and require a department employee to prepare a summary of the record for the department to review. The director may allow the parties to present oral arguments as well as the written arguments. The director shall issue a final decision that can affirm, modify, or reverse the proposed decision.

(8) The director shall serve the final decision on all parties. Any aggrieved party may appeal the final decision to superior court pursuant to RCW 34.04.130 unless the final decision affirms an unappealed proposed decision. If no party appeals within the period set by RCW 34.04.130, the director's decision is conclusive and binding on all parties. The director shall also mail a copy of the final decision to all persons who submitted written arguments or affidavits at the hearing.

[Statutory Authority: RCW 19.30.130. 86-01-027 (Order 85-34), § 296-310-170, filed 12/11/85.]

WAC 296-310-180 Effect of final decision. If the director issues a final decision that includes a finding that a violator owes unpaid wages or damages, and the finding is not appealed or is affirmed by the courts, the finding and the decision are res judicata in any action by the department, or by any other person who was a plaintiff at the hearing, against the violator and its surety to recover the unpaid wages or damages. The finding and decision are not res judicata in any action by a person who was not a party at the hearing.

[Statutory Authority: RCW 19.30.130. 86-01-027 (Order 85-34), § 296-310-180, filed 12/11/85.]

WAC 296-310-190 Suit by department for unpaid wages or damages. (1) RCW 19.30.160(4) authorizes the department to sue a violator and its surety on behalf of an employee to recover unpaid wages and other damages. The department is not required to bring suit and, in its sole discretion, may decide not to do so in any case. The department also shall not sue on behalf of any employee who has

already brought a suit against the violator and its surety in the matter.

(2) The department may file a suit against the violator and its surety at any time and without regard to whether administrative proceedings have been exhausted.

(3) The department may include in any suit a request for an injunction against the violator.

[Statutory Authority: RCW 19.30.130. 86-01-027 (Order 85-34), § 296-310-190, filed 12/11/85.]

WAC 296-310-200 Procedures for filing suit against a contractor. (1) A suit against a contractor and its bond or security for unpaid wages or damages may be brought in any court with jurisdiction. The venue may be in the county in which the claim arose, or in which either the damaged person or the defendant resides.

(2) When a contractor is sued, the plaintiff must serve the summons and complaint on the contractor and its surety by serving three copies of the summons and complaint by certified or registered mail on the department. The department shall not accept personal service of the summons and complaint.

(3) The department may be unable to process a summons and complaint if the summons and complaint do not contain the following information:

- (a) The contractor's name exactly as it appears on the contractor's license;
- (b) The contractor's business address;
- (c) The names of the owners, partners, or officers of the contractor; and
- (d) The contractor's license number.

If the suit names a surety as a defendant, the summons and complaint should also include:

- (e) The name and address of the surety that issued the contractor's bond;
- (f) The bond number; and
- (g) The effective date of the bond.

If the information is insufficient for the department to identify the contractor or surety that is being sued, the department shall not attempt to serve the summons and complaint and shall return them to the plaintiff.

[Statutory Authority: RCW 19.30.130. 86-01-027 (Order 85-34), § 296-310-200, filed 12/11/85.]

WAC 296-310-210 Collection of judgments. (1) If a contractor is secured, a plaintiff who has received a final judgment against a contractor may satisfy the judgment out of the security held by the department.

(2) The department shall satisfy a final judgment if the plaintiff serves on the department three certified copies of the unsatisfied judgment. The plaintiff must include the following information with the copies of the judgment:

- (a) The name of the contractor, exactly as it appears on the contractor's license;
- (b) The contractor's business address;
- (c) The names of the owners, partners, or officers of the contractor;
- (d) The contractor's license number; and
- (e) The exact amount of the judgment awarded by the court, including attorney's fees and interest.

If the department does not receive sufficient information to enable it to pay the judgment, it shall inform the plaintiff that more information is needed.

(3) If a contractor is bonded, a plaintiff can satisfy a final judgment only against the contractor or the bonding company. The department can neither satisfy the judgment nor, unless the department itself is the plaintiff, force the contractor or the bonding company to pay the judgment. The plaintiff must join the bonding company in the suit if it wants the bonding company to pay the judgment.

[Statutory Authority: RCW 19.30.130. 86-01-027 (Order 85-34), § 296-310-210, filed 12/11/85.]

WAC 296-310-220 Priority for payment of judgments. RCW 19.30.170 contains two different provisions for priority in paying judgments from the contractor's bond or security.

(1) If a contractor is secured, the department shall satisfy final judgments against the contractor in the

order the department receives the judgments.

(2) If a contractor is bonded, claims for unpaid wages and benefits are satisfied first, claims for damages are satisfied second, and claims for costs and attorney's fees are satisfied last. No claim in a lesser category may be satisfied until all pending claims in the preceding categories are satisfied, unless the total amount of all pending claims in the preceding categories is less than the amount of the bond that remains unimpaired.

[Statutory Authority: RCW 19.30.130. 86-01-027 (Order 85-34), § 296-310-220, filed 12/11/85.]

WAC 296-310-230 Civil penalties. (1) In determining the amount of any civil penalty to be imposed under RCW 19.30.160 the department shall consider the following factors:

- (a) Previous violations by the violator;
- (b) The history of the violator in taking all necessary measures to prevent or correct violations;
- (c) The magnitude and seriousness of the violation;
- (d) The remedial purpose of chapter 19.30 RCW;
- (e) Any mitigating circumstances; and
- (f) Any other factors the department considers relevant.

(2) It is the violator's responsibility to inform the department of mitigating evidence.

(3) The penalties for acting as a contractor without a license, or for transporting employees without an endorsement to do so, are:

- (a) Up to \$500 for the first violation;
- (b) Up to \$750 for the second violation; and
- (c) Up to \$1000 for the third and any further violations.

[Statutory Authority: RCW 19.30.130. 86-01-027 (Order 85-34), § 296-310-230, filed 12/11/85.]

WAC 296-310-240 Adjustment of controversies. (1) Upon receipt of a complaint or on its own motion, the department shall attempt to adjust equitably a controversy between a contractor and its employees.

(2) No particular form of proceeding is necessary for resolving disputes. The supervisor of employment standards shall, in each case, use his or her best judgment in designing a procedure. However, in every case in which the supervisor determines that a hearing should be held, the supervisor shall notify the affected persons, or their representatives, of the time, date, place, and purpose of the hearing.

(3) A hearing shall be informal and shall not be subject to chapter 34.04 RCW. The supervisor's suggestions for resolution are advisory and not binding, and may not be appealed to any person or court.

(4) The director may delegate the resolution of any particular case to a person other than the supervisor of employment standards. That person shall have the same authority as the supervisor to determine the form of the proceeding.

[Statutory Authority: RCW 19.30.130. 86-01-027 (Order 85-34), § 296-310-240, filed 12/11/85.]

WAC 296-310-250 Filing and service. All papers required to be filed with the director under this chapter or chapter 19.30 RCW shall be addressed to Director, Department of Labor and Industries, General Administration Building, Olympia, WA 98504.

Filing and service may be made as provided in WAC 1-08-090 through 1-08-140.

[Statutory Authority: RCW 19.30.130. 86-01-027 (Order 85-34), § 296-310-250, filed 12/11/85.]

WAC 296-310-260 Liability of person who uses services of unlicensed contractor. (1) A person who knowingly uses the services of an unlicensed contractor is liable for unpaid wages, damages, and civil and criminal penalties to the same extent as the unlicensed contractor.

(2) Pursuant to RCW 19.30.200, a person may prove lack of knowledge by proving that she or he relied on a license issued by the department under chapter 19.30 RCW, or upon the department's representation that the contractor was licensed. The department shall not make oral representations that a contractor is or is not licensed. All representations by the department that a contractor is licensed shall be made in writing and shall be signed by the director or the employment standards supervisor or the assistant director. The department shall not accept reliance on a supposed oral representation as proof in any administrative enforcement proceeding.

[Statutory Authority: RCW 19.30.130. 86-01-027 (Order 85-34), § 296-310-260, filed 12/11/85.]

WAC 296-310-270 Inspection of records. A contractor or any person using a contractor's services shall allow a representative of the department to inspect at any reasonable time the records it is required to keep by chapter 19.30 RCW.

[Statutory Authority: RCW 19.30.130. 86-01-027 (Order 85-34), § 296-310-270, filed 12/11/85.]

Chapter 76.48 RCW
SPECIALIZED FOREST PRODUCTS

SECTIONS

- [76.48.010](#) Declaration of public interest.
- [76.48.020](#) Definitions.
- [76.48.030](#) Unlawful acts.
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- [76.48.050](#) Specialized forest products permits -- Expiration -- Specifications.
- [76.48.060](#) Specialized forest products permits -- Required -- Forms -- Filing.
- [76.48.062](#) Validation of specialized forest product permits -- Authorized agents.
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- [76.48.902](#) Severability -- 1979 ex.s. c 94.
- [76.48.910](#) Saving -- 1967 ex.s. c 47.

RCW 76.48.010

Declaration of public interest.

It is in the public interest of this state to protect a great natural resource and to provide a high degree of protection to the landowners of the state of Washington from the theft of specialized forest products.

[1967 ex.s. c 47 § 2.]

RCW 76.48.020

Definitions.

Unless otherwise required by the context, as used in this chapter:

- (1) "Authorization" means a properly completed preprinted form authorizing the transportation or possession of Christmas trees which contains the information required by RCW [76.48.080](#), a sample of which is filed before the harvesting occurs with the sheriff of the county in which the harvesting is to occur.
- (2) "Cascara bark" means the bark of a Cascara tree.
- (3) "Cedar processor" means any person who purchases, takes, or retains possession of cedar products or cedar salvage for later sale in the same or modified form following removal and delivery from the land where harvested.
- (4) "Cedar products" means cedar shakeboards, shake and shingle bolts, and rounds one to three feet in length.
- (5) "Cedar salvage" means cedar chunks, slabs, stumps, and logs having a volume greater than one cubic foot and being harvested or transported from areas not associated with the concurrent logging of timber stands (a) under a forest practices application approved or notification received by the department of natural resources, or (b) under a contract or permit issued by an agency of the United States government.
- (6) "Christmas trees" means any evergreen trees or the top thereof, commonly known as Christmas trees, with limbs and branches, with or without roots, including fir, pine, spruce, cedar, and other coniferous species.
- (7) "Cut or picked evergreen foliage," commonly known as brush, means evergreen boughs, huckleberry, salal, fern, Oregon grape, rhododendron, mosses, bear grass, scotch broom (*Cytisus scoparius*), and other cut or picked evergreen products. "Cut or picked evergreen foliage" does not mean cones or seeds.
- (8) "Harvest" means to separate, by cutting, prying, picking, peeling, breaking, pulling, splitting, or otherwise removing, a specialized forest product (a) from its physical connection or contact with the land or vegetation upon which it is or was growing or (b) from the position in which it is lying upon the land.
- (9) "Harvest site" means each location where one or more persons are engaged in harvesting specialized forest products close enough to each other that communication can be conducted with an investigating law enforcement officer in a normal conversational tone.
- (10) "Landowner" means, with regard to real property, the private owner, the state of Washington or any political subdivision, the federal government, or a person who by deed, contract, or lease has authority to harvest and sell forest products of the property. "Landowner" does not include the purchaser or successful high bidder at a public or private timber sale.
- (11) "Native ornamental trees and shrubs" means any trees or shrubs which are not nursery grown and which have been removed from the ground with the roots intact.
- (12) "Permit area" means a designated tract of land that may contain single or multiple harvest sites.
- (13) "Person" includes the plural and all corporations, foreign or domestic, copartnerships, firms, and associations of persons.
- (14) "Processed cedar products" means cedar shakes, shingles, fence posts, hop poles, pickets, stakes, rails, or rounds less than one foot in length.

(15) "Sheriff" means, for the purpose of validating specialized forest products permits, the county sheriff, deputy sheriff, or an authorized employee of the sheriff's office or an agent of the office.

(16) "Specialized forest products" means Christmas trees, native ornamental trees and shrubs, cut or picked evergreen foliage, cedar products, cedar salvage, processed cedar products, wild edible mushrooms, and Cascara bark.

(17) "Specialized forest products permit" means a printed document in a form specified by the department of natural resources, or true copy thereof, that is signed by a landowner or his or her authorized agent or representative, referred to in this chapter as "permittors" and validated by the county sheriff and authorizes a designated person, referred to in this chapter as "permittee," who has also signed the permit, to harvest and transport a designated specialized forest product from land owned or controlled and specified by the permittor and that is located in the county where the permit is issued.

(18) "Transportation" means the physical conveyance of specialized forest products outside or off of a harvest site by any means.

(19) "True copy" means a replica of a validated specialized forest products permit as reproduced by a copy machine capable of effectively reproducing the information contained on the permittee's copy of the specialized forest products permit. A copy is made true by the permittee or the permittee and permittor signing in the space provided on the face of the copy. A true copy will be effective until the expiration date of the specialized forest products permit unless the permittee or the permittee and permittor specify an earlier date. A permittor may require the actual signatures of both the permittee and permittor for execution of a true copy by so indicating in the space provided on the original copy of the specialized forest products permit. A permittee, or, if so indicated, the permittee and permittor, may condition the use of the true copy to harvesting only, transportation only, possession only, or any combination thereof.

(20) "Wild edible mushrooms" means edible mushrooms not cultivated or propagated by artificial means.

[2000 c 11 § 18; 1995 c 366 § 1; 1992 c 184 § 1; 1979 ex.s. c 94 § 1; 1977 ex.s. c 147 § 1; 1967 ex.s. c 47 § 3.]

NOTES:

Severability -- 1995 c 366: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1995 c 366 § 19.]

RCW 76.48.030

Unlawful acts.

It is unlawful for any person to:

(1) Harvest specialized forest products as described in RCW [76.48.020](#), in the quantities specified in RCW [76.48.060](#), without first obtaining a validated specialized forest products permit;

(2) Engage in activities or phases of harvesting specialized forest products not authorized by the permit; or

(3) Harvest specialized forest products in any lesser quantities than those specified in RCW [76.48.060](#), as now or hereafter amended, without first obtaining permission from the landowner or his or her duly authorized agent or representative.

[1995 c 366 § 2; 1979 ex.s. c 94 § 2; 1977 ex.s. c 147 § 2; 1967 ex.s. c 47 § 4.]

NOTES:

Severability -- 1995 c 366: See note following RCW [76.48.020](#).

RCW 76.48.040

Agencies responsible for enforcement of chapter.

Agencies charged with the enforcement of this chapter shall include, but not be limited to, the Washington state patrol, county sheriffs and their deputies, county or municipal police forces, authorized personnel of the United States forest service, and authorized personnel of the departments of natural resources and fish and wildlife. Primary enforcement responsibility lies in the county sheriffs and their deputies. The legislature encourages county sheriffs' offices to enter into interlocal agreements with these other agencies in order to receive additional assistance with their enforcement responsibilities.

[1995 c 366 § 3; 1994 c 264 § 51; 1988 c 36 § 49; 1979 ex.s. c 94 § 3; 1977 ex.s. c 147 § 3; 1967 ex.s. c 47 § 5.]

NOTES:

Severability -- 1995 c 366: See note following RCW [76.48.020](#).

RCW 76.48.050

Specialized forest products permits -- Expiration -- Specifications.

Specialized forest products permits shall consist of properly completed permit forms validated by the sheriff of the county in which the specialized forest products are to be harvested. Each permit shall be separately numbered and the permits shall be issued by consecutive numbers. All specialized forest products permits shall expire at the end of the calendar year in which issued, or sooner, at the discretion of the permittor. A properly completed specialized forest products permit form shall include:

- (1) The date of its execution and expiration;
- (2) The name, address, telephone number, if any, and signature of the permittor;
- (3) The name, address, telephone number, if any, and signature of the permittee;
- (4) The type of specialized forest products to be harvested or transported;
- (5) The approximate amount or volume of specialized forest products to be harvested or transported;
- (6) The legal description of the property from which the specialized forest products are to be harvested or transported, including the name of the county, or the state or province if outside the state of Washington;
- (7) A description by local landmarks of where the harvesting is to occur, or from where the specialized forest products are to be transported;
- (8) The number from some type of valid picture identification; and
- (9) Any other condition or limitation which the permittor may specify.

Except for the harvesting of Christmas trees, the permit or true copy thereof must be carried by the permittee and available for inspection at all times. For the harvesting of Christmas trees only a single permit or true copy thereof is necessary to be available at the harvest site.

[1995 c 366 § 4; 1979 ex.s. c 94 § 4; 1977 ex.s. c 147 § 4; 1967 ex.s. c 47 § 6.]

NOTES:

Severability -- 1995 c 366: See note following RCW [76.48.020](#).

RCW 76.48.060

Specialized forest products permits -- Required -- Forms -- Filing.

A specialized forest products permit validated by the county sheriff shall be obtained by a person prior to harvesting from any lands, including his or her own, more than five Christmas trees, more than five native ornamental trees or shrubs, more than five pounds of cut or picked evergreen foliage, any cedar products, cedar salvage, processed cedar products, or more than five pounds of Cascara bark, or more than three United States gallons of a single species of wild edible mushroom and more than an aggregate total of nine United States gallons of wild edible mushrooms, plus one wild edible mushroom. Specialized forest products permit forms shall be provided by the department of natural resources, and shall be made available through the office of the county sheriff to permittees or permitors in reasonable quantities. A permit form shall be completed in triplicate for each permitor's property on which a permittee harvests specialized forest products. A properly completed permit form shall be mailed or presented for validation to the sheriff of the county in which the specialized forest products are to be harvested. Before a permit form is validated by the sheriff, sufficient personal identification may be required to reasonably identify the person mailing or presenting the permit form and the sheriff may conduct other investigations as deemed necessary to determine the validity of the information alleged on the form. When the sheriff is reasonably satisfied as to the truth of the information, the form shall be validated with the sheriff's validation stamp. Upon validation, the form shall become the specialized forest products permit authorizing the harvesting, possession, or transportation of specialized forest products, subject to any other conditions or limitations which the permitor may specify. Two copies of the permit shall be given or mailed to the permitor, or one copy shall be given or mailed to the permitor and the other copy given or mailed to the permittee. The original permit shall be retained in the office of the county sheriff validating the permit. In the event a single land ownership is situated in two or more counties, a specialized forest product permit shall be completed as to the land situated in each county. While engaged in harvesting of specialized forest products, permittees, or their agents or employees, must have readily available at each harvest site a valid permit or true copy of the permit.

[1995 c 366 § 5; 1992 c 184 § 2; 1979 ex.s. c 94 § 5; 1977 ex.s. c 147 § 5; 1967 ex.s. c 47 § 7.]

NOTES:

Severability -- 1995 c 366: See note following RCW [76.48.020](#).

RCW 76.48.062

Validation of specialized forest product permits -- Authorized agents.

County sheriffs may contract with other entities to serve as authorized agents to validate specialized forest product permits. These entities include the United States forest service, the bureau of land management, the department of natural resources, local police departments, and other entities as decided upon by the county sheriffs' departments. An entity that contracts with a county sheriff to serve as an authorized agent to validate specialized forest product permits may make reasonable efforts to verify the information provided on the permit form such as the section, township, and range of the area where harvesting is to occur.

[1995 c 366 § 15.]

NOTES:

Severability -- 1995 c 366: See note following RCW [76.48.020](#).

RCW 76.48.070

Transporting or possessing cedar or other specialized forest products -- Requirements.

(1) Except as provided in RCW [76.48.100](#) and [76.48.075](#), it is unlawful for any person (a) to possess, (b) to transport, or (c) to possess and transport within the state of Washington, subject to any other conditions or limitations specified in the specialized forest products permit by the permittor, more than five Christmas trees, more than five native ornamental trees or shrubs, more than five pounds of cut or picked evergreen foliage, any processed cedar products, or more than five pounds of Cascara bark, or more than three gallons of a single species of wild edible mushrooms and more than an aggregate total of nine gallons of wild edible mushrooms, plus one wild edible mushroom without having in his or her possession a written authorization, sales invoice, bill of lading, or specialized forest products permit or a true copy thereof evidencing his or her title to or authority to have possession of specialized forest products being so possessed or transported.

(2) It is unlawful for any person either (a) to possess, (b) to transport, or (c) to possess and transport within the state of Washington any cedar products or cedar salvage without having in his or her possession a specialized forest products permit or a true copy thereof evidencing his or her title to or authority to have possession of the materials being so possessed or transported.

[1995 c 366 § 6; 1992 c 184 § 3; 1979 ex.s. c 94 § 6; 1977 ex.s. c 147 § 6; 1967 ex.s. c 47 § 8.]

NOTES:

Severability -- 1995 c 366: See note following RCW [76.48.020](#).

RCW 76.48.075

Specialized forest products from out-of-state.

(1) It is unlawful for any person to transport or cause to be transported into this state from any other state or province specialized forest products, except those harvested from that person's own property, without: (a) First acquiring and having readily available for inspection a document indicating the true origin of the specialized forest products as being outside the state, or (b) without acquiring a specialized forest products permit as provided in subsection (4) of this section.

(2) Any person transporting or causing to be transported specialized forest products into this state from any other state or province shall, upon request of any person to whom the specialized forest products are sold or delivered or upon request of any law enforcement officer, prepare and sign a statement indicating the true origin of the specialized forest products, the date of delivery, and the license number of the vehicle making delivery, and shall leave the statement with the person making the request.

(3) It is unlawful for any person to possess specialized forest products, transported into this state, with knowledge that the products were introduced into this state in violation of this chapter.

(4) When any person transporting or causing to be transported into this state specialized forest products elects to acquire a specialized forest products permit, the specialized forest products transported into this state shall be deemed to be harvested in the county of entry, and the sheriff of that county may validate the permit as if the products were so harvested, except that the permit shall also indicate the actual harvest site outside the state.

(5) A cedar processor shall comply with RCW [76.48.096](#) by requiring a person transporting specialized forest products into this state from any other state or province to display a specialized forest products permit, or true copy thereof, or other document indicating the true origin of the specialized forest products as being outside the state. The cedar processor shall make and maintain a record of the purchase, taking possession, or retention of cedar products and cedar salvage in compliance with RCW [76.48.094](#).

(6) If, under official inquiry, investigation, or other authorized proceeding regarding specialized forest products not covered by a valid specialized forest products permit or other acceptable document, the inspecting law enforcement officer has probable cause to believe that the specialized forest products were harvested in this state or wrongfully obtained in another state or province, the officer may take into custody and detain, for a reasonable time, the specialized forest products, all supporting documents, invoices, and bills of lading, and the vehicle in which the products were transported until the true origin of the specialized forest products can be determined.

[1995 c 366 § 7; 1979 ex.s. c 94 § 15.]

NOTES:

Severability -- 1995 c 366: See note following RCW [76.48.020](#).

RCW 76.48.080

Contents of authorization, sales invoice, or bill of lading.

The authorization, sales invoice, or bill of lading required by RCW [76.48.070](#) shall specify:

- (1) The date of its execution.
- (2) The number and type of products sold or being transported.
- (3) The name and address of the owner, vendor, or donor of the specialized forest products.
- (4) The name and address of the vendee, donee, or receiver of the specialized forest products.
- (5) The location of origin of the specialized forest products.

[1979 ex.s. c 94 § 7; 1967 ex.s. c 47 § 9.]

RCW 76.48.085

Purchase of specialized forest products -- Required records.

Buyers who purchase specialized forest products are required to record (1) the permit number; (2) the type of forest product purchased; (3) the permit holder's name; and (4) the amount of forest product purchased. The buyer shall keep a record of this information for a period of one year from the date of purchase and make the records available for inspection by authorized enforcement officials.

The buyer of specialized forest products must record the license plate number of the vehicle transporting the forest products on the bill of sale, as well as the seller's permit number on the bill of sale. This section shall not apply to transactions involving Christmas trees.

This section shall not apply to buyers of specialized forest products at the retail sales level.

[2000 c 11 § 19; 1995 c 366 § 14.]

NOTES:

Severability -- 1995 c 366: See note following RCW [76.48.020](#).

RCW 76.48.086

Records of buyers available for research.

Records of buyers of specialized forest products collected under the requirements of RCW [76.48.085](#) may be made available to colleges and universities for the purpose of research.

[1995 c 366 § 16.]

NOTES:

Severability -- 1995 c 366: See note following RCW [76.48.020](#).

RCW 76.48.094

Cedar processors -- Records of purchase, possession or retention of cedar products and salvage.

Cedar processors shall make and maintain a record of the purchase, taking possession, or retention of cedar products and cedar salvage for at least one year after the date of receipt. The record shall be legible and shall include the date of delivery, the license number of the vehicle delivering the products, the driver's name, and the specialized forest products permit number or the information provided for in RCW [76.48.075](#)(5). The record must be made at the time each delivery is made.

[1979 ex.s. c 94 § 9; 1977 ex.s. c 147 § 11.]

RCW 76.48.096

Cedar processors -- Obtaining from suppliers not having specialized forest products permit unlawful.

It is unlawful for any cedar processor to purchase, take possession, or retain cedar products or cedar salvage subsequent to the harvesting and prior to the retail sale of the products, unless the supplier thereof displays a specialized forest products permit, or true copy thereof that appears to be valid, or obtains the information under RCW [76.48.075](#)(5).

[1995 c 366 § 8; 1979 ex.s. c 94 § 10; 1977 ex.s. c 147 § 12.]

NOTES:

Severability -- 1995 c 366: See note following RCW [76.48.020](#).

RCW 76.48.098

Cedar processors -- Display of valid registration certificate required.

Every cedar processor shall prominently display a valid registration certificate, or copy thereof, obtained from the department of revenue under RCW 82.32.030 at each location where the processor receives cedar products or cedar salvage.

Permittees shall sell cedar products or cedar salvage only to cedar processors displaying registration certificates which appear to be valid.

[1995 c 366 § 9; 1979 ex.s. c 94 § 11; 1977 ex.s. c 147 § 13.]

NOTES:

Severability -- 1995 c 366: See note following RCW [76.48.020](#).

RCW 76.48.100

Exemptions.

The provisions of this chapter do not apply to:

- (1) Nursery grown products.

(2) Logs (except as included in the definition of "cedar salvage" under RCW [76.48.020](#)), poles, pilings, or other major forest products from which substantially all of the limbs and branches have been removed, and cedar salvage when harvested concurrently with timber stands (a) under an approved forest practices application or notification, or (b) under a contract or permit issued by an agency of the United States government.

(3) The activities of a landowner, his or her agent, or representative, or of a lessee of land in carrying on noncommercial property management, maintenance, or improvements on or in connection with the land of the landowner or lessee.

[1995 c 366 § 10; 1979 ex.s. c 94 § 12; 1977 ex.s. c 147 § 7; 1967 ex.s. c 47 § 11.]

NOTES:

Severability -- 1995 c 366: See note following RCW [76.48.020](#).

RCW 76.48.110

Violations -- Seizure and disposition of products -- Disposition of proceeds.

Whenever any law enforcement officer has probable cause to believe that a person is harvesting or is in possession of or transporting specialized forest products in violation of the provisions of this chapter, he or she may, at the time of making an arrest, seize and take possession of any specialized forest products found. The law enforcement officer shall provide reasonable protection for the specialized forest products involved during the period of litigation or he or she shall dispose of the specialized forest products at the discretion or order of the court before which the arrested person is ordered to appear.

Upon any disposition of the case by the court, the court shall make a reasonable effort to return the specialized forest products to its rightful owner or pay the proceeds of any sale of specialized forest products less any reasonable expenses of the sale to the rightful owner. If for any reason, the proceeds of the sale cannot be disposed of to the rightful owner, the proceeds, less the reasonable expenses of the sale, shall be paid to the treasurer of the county in which the violation occurred. The county treasurer shall deposit the same in the county general fund. The return of the specialized forest products or the payment of the proceeds of any sale of products seized to the owner shall not preclude the court from imposing any fine or penalty upon the violator for the violation of the provisions of this chapter.

[1995 c 366 § 11; 1979 ex.s. c 94 § 13; 1977 ex.s. c 147 § 8; 1967 ex.s. c 47 § 12.]

NOTES:

Severability -- 1995 c 366: See note following RCW [76.48.020](#).

RCW 76.48.120

False, fraudulent, stolen or forged specialized forest products permit, sales invoice, bill of lading, etc. -- Penalty.

***** CHANGE IN 2003 *** (SEE 5758.SL) *****

It is unlawful for any person, upon official inquiry, investigation, or other authorized proceedings, to offer as genuine any paper, document, or other instrument in writing purporting to be a specialized forest products permit, or true copy thereof, authorization, sales invoice, or bill of lading, or to make any representation of authority to possess or conduct harvesting or transporting of specialized forest products, knowing the same to be in any manner false, fraudulent, forged, or stolen.

Any person who knowingly or intentionally violates this section is guilty of forgery, and shall be punished as a class C felony providing for imprisonment in a state correctional institution for a maximum term fixed by the court of not more than five years or by a fine of not more than five thousand dollars, or by both imprisonment and fine.

Whenever any law enforcement officer reasonably suspects that a specialized forest products permit or true copy thereof, authorization, sales invoice, or bill of lading is forged, fraudulent, or stolen, it may be retained by the officer until its authenticity can be verified.

[1995 c 366 § 12; 1979 ex.s. c 94 § 14; 1977 ex.s. c 147 § 9; 1967 ex.s. c 47 § 13.]

NOTES:

Severability -- 1995 c 366: See note following RCW [76.48.020](#).

RCW 76.48.130

Penalties.

A person who violates a provision of this chapter, other than the provisions contained in RCW [76.48.120](#), as now or hereafter amended, is guilty of a gross misdemeanor and upon conviction thereof shall be punished by a fine of not more than one thousand dollars or by imprisonment in the county jail for not to exceed one year or by both a fine and imprisonment.

[1995 c 366 § 13; 1977 ex.s. c 147 § 10; 1967 ex.s. c 47 § 14.]

NOTES:

Severability -- 1995 c 366: See note following RCW [76.48.020](#).

RCW 76.48.140

Disposition of fines.

All fines collected for violations of any provision of this chapter shall be paid into the general fund of the county treasury of the county in which the violation occurred.

[1977 ex.s. c 147 § 15.]

RCW 76.48.200

Assistance and training for minority groups.

Minority groups have long been participants in the specialized forest products industry. The legislature encourages agencies serving minority communities, community-based organizations, refugee centers, social service agencies, agencies and organizations with expertise in the specialized forest products industry, and other interested groups to work cooperatively to accomplish the following purposes:

- (1) To provide assistance and make referrals on translation services and to assist in translating educational materials, laws, and rules regarding specialized forest products;
- (2) To hold clinics to teach techniques for effective picking; and
- (3) To work with both minority and nonminority permittees in order to protect resources and foster understanding between minority and nonminority permittees.

To the extent practicable within their existing resources, the commission on Asian-American affairs, the commission on Hispanic affairs, and the department of natural resources are encouraged to coordinate this effort.

[1995 c 366 § 17.]

NOTES:

Severability -- 1995 c 366: See note following RCW [76.48.020](#).

RCW 76.48.900

Severability -- 1967 ex.s. c 47.

If any section, provision, or part thereof of this chapter shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the chapter as a whole, or any section, provision, or part thereof not adjudged invalid or unconstitutional.

[1967 ex.s. c 47 § 15.]

RCW 76.48.901

Severability -- 1977 ex.s. c 147.

If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

[1977 ex.s. c 147 § 16.]

RCW 76.48.902

Severability -- 1979 ex.s. c 94.

If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

[1979 ex.s. c 94 § 17.]

RCW 76.48.910

Saving -- 1967 ex.s. c 47.

This chapter is not intended to repeal or modify any provision of existing law.

[1967 ex.s. c 47 § 16.]